



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Nandakumar Govindaswamy
VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

COPY MAILED

NOV 09 2004

OFFICE OF PETITIONS

In re Application of	:
Jain-Pandey, et al.	:
Application No. 10/728,114	: DECISION GRANTING PETITION
Deposited: December 4, 2003	:
Attorney Docket No. VPI/02-135 US	:
	:
	:

This is a decision on the petition, filed October 5, 2004 to accord a filing date of December 4, 2003 to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on December 4, 2003. However, on March 5, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on December 4, 2003 did not describe drawing figures.

As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process, method, or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, not describing drawing figures in the specification, and filed without drawings will simply be processed for examination.

This application contains composition claims. Therefore, the application should have been accorded a filing date and processed for examination.

In view of the above, the "Notice" mailed March 5, 2004 was mailed in error with respect to the

filing date issue and is hereby withdrawn to that extent.

The application is entitled to a filing date of December 4, 2003. The petition under 37 CFR 1.53(e) is **GRANTED**.

No petition fee has been or will be charged in connection with this matter. The \$2,080 extension of time fee is unnecessary and will be credited to deposit account no. 50-0725.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 4, 2003 and for indication in PTO records that "0" sheets of drawings were present on filing.

Thereafter, the application will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy